

# HOUSE BILL REPORT

## HB 2172

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**As Reported by House Committee On:**  
Economic Development, Agriculture & Trade

**Title:** An act relating to department of ecology water discharge permit fees.

**Brief Description:** Concerning water discharge permit fees.

**Sponsors:** Representatives Newhouse, Linville and Clements.

**Brief History:**

**Committee Activity:**

Economic Development, Agriculture & Trade: 3/1/05, 3/2/05 [DPS].

**Brief Summary of Substitute Bill**

- Limits the permit fees the Department of Ecology and a municipality that is delegated wastewater discharge permit authority may charge to an indirect discharger.

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### HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT, AGRICULTURE & TRADE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Linville, Chair; Pettigrew, Vice Chair; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Blake, Buri, Chase, Clibborn, Condotta, Dunn, Grant, Haler, Holmquist, Kenney, Kilmer, Kretz, McCoy, Morrell, Newhouse, Quall, Strow, P. Sullivan and Wallace.

**Staff:** Caroleen Dineen (786-7156).

**Background:**

Federal Law. The federal Clean Water Act (CWA) sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and to eliminate pollutant discharges into navigable waters. Among other requirements, the CWA sets effluent limitations for discharges of pollutants to navigable waters and requires states to adopt surface water quality standards to protect humans, fish and other aquatic life. The CWA also establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate certain wastewater and stormwater discharges.

State Permit Program. The Department of Ecology (DOE) administers a state program for discharge of pollutants to state waters from municipalities or from commercial or industrial operations. The DOE also administers the federal NPDES permit program pursuant to a

delegation of authority from the United States Environmental Protection Agency. The DOE issues both individual permits (covering single, specific activities or facilities) and general permits (covering a category of similar dischargers) in the state and NPDES permit programs. The DOE may allow a city, town, or municipal corporation operating a sewer system with treatment facilities to issue permits for waste discharges to the system under certain circumstances. A person with a permit to discharge into a sewer system operated by a delegated municipal corporation does not have to obtain a state permit for the wastes discharged into the sewer system.

**Discharge Permit Fee Rule.** State law requires the annual discharge permit fees to be established to fully recover but not exceed the permit program's expenses. These expenses include permit processing, monitoring, compliance, sampling, evaluation, inspection, and program overhead costs. The DOE adopts the fee schedule by rule.

State law also specifies the DOE must ensure that indirect dischargers do not pay twice for administrative permit expenses. Therefore, the DOE may not recover administrative expenses for permits issued by a municipality.

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**Summary of Substitute Bill:**

Fee limitations are specified for situations in which a municipality issues a permit and collects a fee from an indirect discharger pursuant to a delegation from the DOE of federal pretreatment program duties. Under these circumstances, the DOE must reduce its permit fee by at least 50 percent for any permit it issues to the indirect discharger. The delegated municipality's permit fee in these circumstances must be the lesser of the: (1) municipality's actual cost for issuing the permit; or (2) permit fee established by the DOE rule for the type of permit issued by the municipality.

**Substitute Bill Compared to Original Bill:**

The substitute replaces the waiver of the DOE permit fees with limitations on both the municipal and the DOE permit fees when a municipality has delegated federal pretreatment authority.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support of original bill) This bill takes the law regarding discharge permit fees back to its intent. When the DOE issues multiple discharge permits, the DOE can only charge for one permit. In areas like Yakima in which the DOE has delegated authority to issue permits, some businesses are caught between the municipality and the DOE and have to

pay twice for permits. The DOE says it does not have the authority to waive its fee in these situations. These businesses are willing to pay a fair fee, but the extra expense is a problem.

The bill language may need to be clarified to ensure that the bill focuses only on this problem and is not interpreted to apply to other types of permits.

**Testimony Against:** (Opposed to original bill) When the DOE delegates permit responsibilities to a municipality, the DOE does not track, monitor, or charge fees for discharges going to the municipality's sewer system. The DOE regulates only if there is a separate discharge not going to the sewer. The DOE cannot support this bill, as it allows one class of permittees to not pay any other permit fees if they are covered under a delegation.

**Persons Testifying:** (In support of original bill) Representative Newhouse, prime sponsor; Representative Clements; and Dave Ducharme, Yakima Valley Growers-Shippers Association.

(Opposed to original bill) Melodie Selby, Washington Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.